

ORS 433.800 to 433.830, except where such conduct can be described as wanton misconduct. [1981 c.367 §6; 1997 c.345 §7]

OREGON INDOOR CLEAN AIR ACT

433.835 Definitions for ORS 433.835 to 433.875. As used in ORS 433.835 to 433.875:

- (1) “Cigar bar” means a business that:
 - (a) Has on-site sales of cigars as defined in ORS 323.500;
 - (b) Has a humidor on the premises;
 - (c) Allows the smoking of cigars on the premises but prohibits the smoking of all other tobacco products in any form including, but not limited to, loose tobacco, pipe tobacco, cigarettes as defined in ORS 323.010 and cigarillos as defined by the Oregon Health Authority by rule;
 - (d) Has been issued and operates under a full on-premises sales license issued under ORS 471.175;
 - (e) Prohibits persons under 21 years of age from entering the premises and posts notice of the prohibition;
 - (f) Does not offer video lottery games as authorized under ORS 461.217;
 - (g) Has a maximum seating capacity of 40 persons;
 - (h) Has a ventilation system that is certified by the assistant to the State Fire Marshal described in ORS 476.060 for the jurisdiction in which the cigar bar is located as adequate to remove the cigar smoke in the cigar bar and vents the smoke from the cigar bar in a manner that prevents the smoke from entering any other establishment; and
 - (i) Requires all employees to read and sign a document that explains the dangers of exposure to secondhand smoke.
- (2) “Enclosed area” means all space between a floor and a ceiling that is enclosed on three or more sides by permanent or temporary walls or windows, exclusive of doors or passageways, that extend from the floor to the ceiling.
- (3) “Place of employment” means every enclosed area under the control of a public or private employer that employees frequent during the course of employment, including but not limited to work areas, employee lounges, vehicles that are operated in the course of an employer’s business that are not operated exclusively by one employee, rest rooms, conference rooms, classrooms, cafeterias, hallways, meeting rooms, elevators and stairways. “Place of employment” does not include a private residence unless it is used as a child care facility as defined in ORS 657A.250 or a facility providing adult day care as defined in ORS 410.490.
- (4) “Public place” means any enclosed area open to the public.
- (5) “Smoke shop” means a business that:
 - (a) Is primarily engaged in the sale of tobacco products and smoking instruments, with at least 75 percent of the gross revenues of the business resulting from such sales;
 - (b) Prohibits persons under 18 years of age from entering the premises;
 - (c) Does not offer video lottery games as authorized under ORS 461.217, social gaming or betting on the premises;
 - (d) Does not sell or offer on-premises consumption of alcoholic beverages; and
 - (e) Is a stand-alone business with no other businesses or residential property attached to the premises.
- (6) “Smoking instrument” means any cigar, cigarette, pipe or other smoking equipment. [1981 c.384 §2; 2001 c.990 §1; 2007 c.602 §1; 2009 c.595 §684]

433.840 Policy. The people of Oregon find that because exposure to secondhand smoke is known to cause cancer and other chronic diseases such as heart disease, asthma and bronchitis, it is necessary to reduce exposure to tobacco smoke by prohibiting smoking in all public places and places of employment. [1981 c.384 §1; 2007 c.602 §2]

433.845 Smoking prohibited except in designated areas. (1) A person may not smoke or carry any lighted smoking instrument in a public place or place of employment except in areas designated as smoking areas pursuant to ORS 433.850.

(2) A person may not smoke or carry any lighted smoking instrument within 10 feet of the following parts of public places or places of employment:

- (a) Entrances;
- (b) Exits;
- (c) Windows that open; and
- (d) Ventilation intakes that serve an enclosed area.

(3) A person may not smoke or carry any lighted smoking instrument in a room during the time that jurors are required to use the room. [1981 c.384 §3; 1985 c.752 §1; 2007 c.602 §3]

433.850 Smoke free place of employment required; exceptions; posting signs. (1) An employer shall provide a place of employment that is free of tobacco smoke for all employees.

(2) Notwithstanding subsection (1) of this section:

(a) The owner or person in charge of a hotel or motel may designate up to 25 percent of the sleeping rooms of the hotel or motel as rooms in which smoking is permitted.

(b) Smoking of noncommercial tobacco products for ceremonial purposes is permitted in spaces designated for traditional ceremonies in accordance with the American Indian Religious Freedom Act, 42 U.S.C. 1996.

(c) Smoking is permitted in a smoke shop.

(d) Smoking is permitted in a cigar bar that generated on-site retail sales of cigars of at least \$5,000 for the calendar year ending December 31, 2006.

(3) An employer, except in those places described in subsection (2) of this section, shall post signs that provide notice of the provisions of ORS 433.835 to 433.875. [1981 c.384 §§4,5; 2001 c.104 §161; 2001 c.990 §2; 2007 c.602 §4]

433.855 Duties of Oregon Health Authority; rules; limitations; compliance checks. (1) The Oregon Health Authority, in accordance with the provisions of ORS chapter 183:

(a) Shall adopt rules necessary to implement the provisions of ORS 433.835 to 433.875 and 433.990 (5);

(b) Shall be responsible for compliance with such rules; and

(c) May impose a civil penalty not to exceed the amount specified in ORS 433.990 (5) for each violation of a rule of the authority applicable to ORS 433.845 or 433.850, to be collected in the manner provided in ORS 441.705 to 441.745. All penalties recovered shall be paid into the State Treasury and credited to the Tobacco Use Reduction Account established under ORS 431.832.

(2) In carrying out its duties under this section, the authority is not authorized to require any changes in ventilation or barriers in any public place or place of employment. However, nothing in this subsection is intended to limit the power of the authority to impose any requirements under any other provision of law.

(3) In public places which the authority regularly inspects, the authority shall check for compliance with the provisions of ORS 433.835 to 433.875 and 433.990 (5). In other public places and places of employment, the authority shall respond in writing or orally by telephone to complaints, notifying the proprietor or person in charge of responsibilities of the proprietor or person in charge under ORS 433.835 to 433.875 and 433.990 (5). If repeated complaints are received, the authority may take appropriate action to ensure compliance.

(4) When a county has received delegation of the duties and responsibilities under ORS 446.425 and 448.100, or contracted with the authority under ORS 190.110, the county shall be responsible for enforcing the provisions of ORS 433.835 to 433.875 and 433.990 (5) and shall have the same enforcement power as the authority. [1981 c.384 §6; 1991 c.734 §21; 2001 c.104 §162; 2001 c.990 §6; 2003 c.309 §6; 2007 c.445 §36; 2007 c.602 §5; 2009 c.595 §686]

433.860 Enforcement. The Oregon Health Authority or local board of health may institute an action in the circuit court of the county where the violation occurred to enjoin repeated violations of ORS 433.850. [1981 c.384 §7; 2009 c.595 §687]

433.863 [2001 c.990 §4; repealed by 2007 c.602 §12]

433.865 [1981 c.384 §8; 2001 c.104 §163; 2007 c.445 §37; repealed by 2007 c.602 §12]

433.870 Regulation in addition to other smoking regulations. The rules authorized by ORS 433.855 and 433.860 are in addition to and not in lieu of any other law regulating smoking. [1981 c.384 §11; 2001 c.104 §164; 2001 c.990 §5; 2007 c.602 §6]

433.875 Short title. ORS 433.835 to 433.875 and 433.990 (5) shall be cited as the Oregon Indoor Clean Air Act. [1981 c.384 §12; 2001 c.104 §165; 2007 c.445 §38]

PENALTIES

433.990 Penalties. (1) Violation of ORS 433.004 or 433.008, 433.255, 433.260 or 433.715 is a Class A misdemeanor.

(2) Violation of ORS 433.010 is punishable, upon conviction, by imprisonment in the custody of the Department of Corrections for not more than three years.

(3) Violation of ORS 433.035 is punishable upon conviction by a fine of not less than \$10 nor more than \$100, or by imprisonment for not less than 10 days nor more than 30 days, or by both.

(4) Violation of ORS 433.131 is a Class D violation punishable by fines totaling not more than \$50 per day, not to exceed \$1,000 in any 30-day period.

(5) Violation of ORS 433.850 is a Class A violation punishable by a fine of not more than \$500 per day. Fines imposed against a single employer under this subsection may not exceed \$2,000 in any 30-day period.

(6) Violation of ORS 433.345 or 433.365 is a Class B violation. Failure to obey any lawful order of the Director of the Oregon Health Authority issued under ORS 433.350 is a Class C misdemeanor.

(7) Any organizer, as defined in ORS 433.735, violating ORS 433.745 is punishable, upon conviction, by a fine of not more than \$10,000. [Subsection (8) (1969 Replacement Part) enacted as 1957 c.422 §2; subsection (8) derived from 434.990; 1971 c.648 §23; subsection (9) enacted as 1971 c.413 §6; subsection (10) enacted as 1971 c.597 §7; 1973 c.779 §46; 1979 c.492 §6; 1979 c.828 §13; subsection (5) enacted as 1981 c.384 §10; 1987 c.320 §232; 1987 c.600 §16; 1999 c.1051 §182; 2001 c.104 §166; 2001 c.636 §5; 2001 c.990 §7; 2007 c.445 §30; 2007 c.602 §7; 2009 c.595 §688]